

SENATE BILL 2042

By McNally

AN ACT to amend Tennessee Code Annotated, Title 10, Chapter 7, Title 9, Chapter 3 and Title 4, Chapter 3 relative to audit committees and audit work papers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-3-405, is amended by adding the following language as new subsections:

(c) Except as provided in subsection (d), all meetings of an audit committee created pursuant to this chapter shall abide by the notice requirements adhered to by the local government to which the audit committee is attached.

(d) All meetings of an audit committee created pursuant to this chapter shall be subject to the open meetings provisions of title 8, chapter 44, except that the audit committee may hold confidential, nonpublic executive sessions to discuss:

(1) Items deemed not subject to public inspection under §§ 10-7-503 and 10-7-504, and all other matters designated as confidential or privileged under this code;

(2) Litigation;

(3) Audits or investigations;

(4) Information protected by federal law; and

(5) Matters involving information under § 9-3-406 where the informant has requested anonymity.

(e) No business, other than that described under subdivisions (d)(1)-(d)(5), shall be considered during a confidential, nonpublic executive session by the audit committee.

(f) For purposes of providing notice of a confidential, nonpublic executive session, the agenda must disclose the general nature of discussion as described under subdivisions (d)(1)-(d)(5).

(g) A meeting at which both subject matter open to the public and confidential subject matter will be discussed shall be conducted as follows:

(1) All business relating to subject matter that is public in nature shall be conducted first; and

(2) At the conclusion of the meeting relating to subject matter that is public in nature, the chair shall announce that the public portion of the meeting is adjourned and that the remainder of the meeting will concern matters that are confidential under subdivisions (d)(1)-(d)(5). When everyone at the meeting who is not authorized to attend the confidential portion of the meeting has departed, the confidential portion of the meeting shall commence.

(h) This chapter is not intended to prevent the full governing body of the local government from going into confidential, nonpublic executive session for the purpose of further discussing those matters as described under subdivisions (d)(1)-(d)(5). All portions of meetings of the full governing body of the local government, where matters described under subdivisions (d)(1)-(d)(5) will be discussed, shall be exempt from the provisions of title 8, chapter 44; provided, that the full governing body of the local government shall abide by the notice requirements of subsections (c)-(f).

SECTION 2. Tennessee Code Annotated, Title 9, Chapter 3, Part 4, is amended by adding the following as a new section thereto:

§ 9-3-406

(a) An audit committee created pursuant to this chapter shall establish a process by which employees, taxpayers or other citizens may confidentially report suspected

illegal, improper, wasteful or fraudulent activity. The detailed information received pursuant to such a report of illegal, improper, wasteful or fraudulent activity or any investigation thereof, except those matters disclosed in the final reports, shall be considered audit working papers and shall be confidential under the provisions of title 10, chapter 7

(b) The provisions of § 50-1-304 shall apply to all local government employees. In addition, no local government employees shall suffer any of the prohibited retaliatory actions specified in § 50-1-304 for reporting or cooperating with the audit committee, internal auditors, or auditors from, or approved by, the comptroller of the treasury, or for reporting any facts to the local government to which the audit committee is attached. Any person who knowingly and willingly retaliates or takes adverse action of any kind against any person for reporting alleged wrongdoing pursuant to the provisions of this chapter commits a Class A misdemeanor.

SECTION 3. Tennessee Code Annotated, Section 4-3-304(7), is amended by adding the following sentence immediately after the last sentence of the paragraph:

Notwithstanding any law to the contrary, working papers obtained or compiled by an internal audit staff are confidential and are therefore not an open record pursuant to title 10, chapter 7.

SECTION 4. Tennessee Code Annotated, Section 4-3-304(9), is amended by adding the following immediately after the last sentence of the paragraph:

Notwithstanding any law to the contrary, working papers obtained or compiled by an internal audit staff are confidential and are therefore not an open record pursuant to title 10, chapter 7.

SECTION 5. This act shall be effective upon becoming the law, the public welfare requiring it.